# War on Guns DA

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### War on Guns

#### Uniqueness: There is a movement currently in the political realm against the prison industrial complex and the war on drugs. 2 parts:

#### I. Obama is granting clemency to hundreds of people in jail for unjust laws. Horwitz 12/18:

Horwitz, Sari. *President Obama commutes sentences of 95 federal drug offenders*. 2015. <https://www.washingtonpost.com/world/national-security/president-obama-commutes-sentences-of-about-100-drug-offenders/2015/12/18/9b62c91c-a5a3-11e5-9c4e-be37f66848bb\_story.html>

President Obama commuted the sentences of 95 drug offenders Friday, more than double the number he granted this summer, in an effort to give relief to drug offenders who were harshly sentenced in the nation’s war on drugs. It is the third time this year that the president has used his unique **clemency** power to release federal drug offenders, whose harsh sentences have contributed to the phenomenon of mass incarceration. The commutations are a centerpiece of the president’s effort to make the most significant changes­ in the nation’s criminal justice system in decades. He and former attorney general Eric H. Holder Jr. have spoken passionately about the need to fix what they say is a broken system — one they argue has subjected too many nonviolent inmates to decades behind bars, disproportionately hurting minority communities.

#### II. Republicans are starting to support reducing the war on drugs and reform. Lidgett 9/17:

Lidgett, Adam. *GOP War On Drugs Waning? Republicans Debate Marijuana Legalization.* 2015 <http://www.ibtimes.com/gop-war-drugs-waning-republicans-debate-marijuana-legalization-2102285>

The GOP was once known for its unforgiving approach to locking people up for drug offenses, but Wednesday’s debate suggests this may no longer be the case. Several of the 11 top presidential candidates indicated they would rather reform the criminal justice system than see it continue on the path that has **led** to more than 1.5 million Americans in [jail](http://www.bjs.gov/content/pub/pdf/p13.pdf). The shift signals that Republican candidates might be overhauling their stances on mass incarceration to reflect the views of Americans, who increasingly support the legalization of drugs such as marijuana. “There is at least one prominent example on the stage of someone who says they smoked pot in high school,” U.S. Sen. Rand Paul, R-Ky., [said](https://www.yahoo.com/politics/at-gop-debate-jeb-bush-admits-to-smoking-pot-129266353836.html) Wednesday during the CNN-hosted debate, referencing former Florida Gov. Jeb Bush, who openly admitted to smoking marijuana in his youth. “And yet the people going to jail for this are poor people — often African-Americans and often Hispanics — and yet the rich kids who use drugs aren’t.”

#### Link: The aff’s criminalization of guns creates an incentive for police to now crack down on guns instead of drugs—empirics prove

Gourevitch June 30th, 2015 ALEX. "Gun Control’s Racist Reality: The Liberal Argument against Giving Police More Power." Saloncom RSS. Salon, 24 June 2015. Web. <http://www.salon.com/2015/06/24/gun\_controls\_racist\_reality\_the\_liberal\_argument\_against\_giving\_police\_more\_power/>.

The dead are buried, the murderer apprehended, and the shock has started to wear off. Now comes the public reaction to the massacre in Charleston.¶ Soon after the shootings at the Emanuel African Methodist Episcopal Church in Charleston, South Carolina, the first black president of the United States offered some thoughts on Dylan Roof’s racist attack. First and foremost, President Obama said, recent events were about how “innocent people were killed in part because someone who wanted to inflict harm had no trouble getting their hand on a gun.” The killings were also about a “dark chapter in our history,” namely racial slavery and Jim Crow. Obama only suggested practical action regarding the first issue, namely gun control.¶ He did not consider that such measures will make the persistence of the second problem even worse.¶ It is perhaps counterintuitive to say so but gun control responses to mass killings – whether racially motivated or otherwise – are a deep mistake. The standard form of gun control means writing more criminal laws, creating new crimes, and therefore creating more criminals or more reasons for police to suspect people of crimes. More than that, it means creating yet more pretexts for a militarized police, full of racial and class prejudice, to overpolice.¶ As multiple police killings of unarmed black men have reminded us, the police already operate with barely constrained force in poor, minority neighborhoods. From SWAT to stop-and-frisk to mass incarceration to parole monitoring, the police manage a panoply of programs that subject these populations to multiple layers of coercion and control. As a consequence, more than 7 million Americans are subject to some form of correctional control, an extremely disproportionate number of whom are poor and minority.¶ While it is commonly assumed that the drug war is to blame for all this, work by scholars like Benjamin Levin and Jeff Fagan demonstrates that already existing gun control efforts also play an important role. One of the most notorious areas of policing, the NYPD’s stop-and-frisk program, was justified as a gun control rather than a drug war measure. In the name of preventing violence, hundreds of thousands of poor minorities are subject to searches without probable cause each year. Further, a range of Supreme Court-authorized exceptions to standard Fourth Amendment protections against illegal search and seizure derive from a concern with gun violence.¶ This invasiveness is a necessary feature of criminalized gun possession. After all, policing guns is just like policing drugs. Like drugs, there are a vast number of guns. Possession is far more widespread than can possibly be policed so decisions have to be made about where to devote resources. Furthermore, since possession itself is the crime, the only way to police that crime is to shift from actual harm to identifying and preventing risks. As legal scholar Benjamin Levin argues in a forthcoming piece¶ “Searching for guns – like searching for drugs – can easily become pretextual, a proxy for some general prediction of risk, danger, or lawlessness.”¶ In other words, there must be selective enforcement, where enforcement includes invasive searches based on existing prejudices about who is and isn’t dangerous. For example, as research by Jeff Fagan and Garth Davies shows, in the late 1990s, the NYPD used suspected weapons violations to justify numerous stops, even though these stops resulted in fewer arrests than stops for other crimes. And when it comes to individualized assessments of who is dangerous and worthy of punishment, every study shows steep, and unfounded, bias. Michelle Alexander, quotes a former U.S. attorney in her recent sensation, “The New Jim Crow,” saying the following:¶ “I had an [assistant U.S. attorney who] wanted to drop the gun charge against the defendant [in a case which] there were no extenuating circumstances. I asked, ‘Why do you want to drop the gun offense?’ And he said, ‘He’s a rural guy and grew up on a farm. The gun he had with him was a rifle. He’s a good ol’ boy, and all good ol’ boys have rifles, and it’s not like he was a gun-toting drug dealer.’ But he was a gun-toting drug dealer, exactly.”¶ This isn’t just a point about conscious and unconscious biases towards poor minorities – biases that some imagine can be removed with proper training. No matter how neutral the laws are, their enforcement must remain unequal and unfair. That is because the policing involved would never be tolerated if they affected politically influential groups to the same degree. These policing practices persist because they are disproportionately directed against marginal populations.¶ Once individuals find themselves arrested gun control reappears as a reason for increasing punishment. Gun possession can be used to enhance sentences for other crimes and even functions as a kind of double punishment when that possession becomes the reason for also tacking on an extra criminal charge. Gun charges are also a part of the excessive and racially unequal over-charging practices that not only contribute to rising incarceration rates but also ends force numerous individuals away from trial and into plea bargains. Poor Blacks and Latinos are easily intimidated by charge-happy prosecutors into accepting plea deals, meaning they never see their day in court. Some even end up admitting to crimes they did not commit just to avoid the possibility of more severe punishments. More criminal gun laws would only feed this deeply unjust system.¶ There is an unrecognized gap between the justification for gun control and its most likely effect. There is no reason to expect fair enforcement of gun control laws, or even that they will mainly be used to someone prevent these massacres. That is because how our society polices depends not on the laws themselves but on how the police – and prosecutors and courts – decide to enforce the law. Especially given how many guns there are in the U.S., gun law enforcement will be selective. That is to say, they will be unfairly enforced, only deepening the injustices daily committed against poor minorities in the name of law and order.¶ It is hard to imagine any feasible gun control laws doing much to decrease mass shootings. But it is easy to see how they will become part of the system of social control of mostly black, mostly poor people. There are already too many crimes, there is too much criminal law, and there is far too much incarceration — especially of black people. To the degree that all that is part of the “dark chapter in our history,” given the deep injustice of our society, and especially its policing practices, the actual practice of gun control will continue that dark chapter, not resolve it.¶ Of course, a reasonable gun control regime is logically possible. We can imagine one in our heads. But it is not politically possible in the United States right now. And it is a great error to think that gun control is the path to racial justice. More likely, it is the other way around. Racial justice is a precondition for any reasonable gun control regime.¶ That, perhaps, is why the demands that have emerged from the #blacklivesmatter movement focus not on gun control but instead on demilitarizing the police and investing in “jobs, housing, and schools” for those “black communities most devastated by poverty.”¶ What happened in Charleston is a horrific tragedy. The criminal law will not solve it. I wish I had a better solution ready at hand. I don’t, though I think it would start by freeing our political imagination from instinctively reaching for the criminal law.

#### Impact: Gun bans will dramatically increase policing in communities of color, revitalizing the prison industrial complex while putting black people in more confrontation with policing and brutality. The war on drugs becomes the war on guns. Balko 14

Balko, Radley. Shaneen Allen, race and gun control. 2014. <https://www.washingtonpost.com/news/the-watch/wp/2014/07/22/shaneen-allen-race-and-gun-control/>

As it turns out, Allen’s case isn’t unusual at all. Although white people occasionally do become the victims of overly broad gun laws (for example, see[the outrageous prosecution of Brian Aitken](http://reason.com/archives/2010/11/15/brian-aitkens-mistake), also in New Jersey), the typical person arrested for gun crimes is more likely to have the complexion of Shaneen Allen than, say, Sarah Palin. [Last year,](http://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2013/Table04.pdf) 47.3 percent of those convicted for federal gun crimes were black — a racial disparity larger than any other class of federal crimes, including drug crimes. [In a 2011 report](http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/mandatory-minimum-penalties/20111031-rtc-pdf/Chapter_09.pdf)on mandatory minimum sentencing for gun crimes, the U.S. Sentencing Commission found that blacks were far more likely to be charged and convicted of federal gun crimes that carry mandatory minimum sentences. They were also more likely to be hit with “enhancement” penalties that added to their sentences. In fact, the racial discrepancy for mandatory minimums was even higher than the aforementioned disparity for federal gun crimes in general: Some on the law-and-order right will argue here that the disproportionate number of arrests, convictions and mandatory minimum sentences for black offenders is merely a reflection of the fact that black people are disproportionately likely to commit these sorts of crimes. Progressives will argue that the disparity reflects institutional racism in the criminal justice system. There’s some truth to both. But there’s no disputing the figures. Much of this boils down to professional discretion. When a person victimizes another person with a gun, the offending person has already committed a crime. And in nearly every state and under federal law, it is already an additional crime to use or possess a gun while doing something that is already a crime. So when gun control advocates say we need to crack down on gun offenders, or when they propose that we create new gun crimes, they aren’t suggesting we crack down on people who use guns to rob banks or to commit murders. We already go after those people. What they’re proposing is that we target people who possess, sell or transport guns not because they want to hurt people with them, but for reasons ranging from what most reasonable people would believe to be justifiable (like Shaneen Allen) to what gun control proponents would likely consider objectionable (the gun shop owners and gun manufacturers who make money selling weapons). If you’re an advocate for gun control, you could certainly argue that the tradeoff here is worth it. There’s an argument to be made that we still need to target irresponsible gun owners and gun merchants, even if they aren’t using guns to victimize people, because their guns could end up in the hands of people who do. But if you’re going to make that argument, you also need to understand that prosecuting people under these circumstances means that we’ll be putting more people in prison. And who those people are will reflect all of the biases, prejudices and predispositions